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6 UNITED STATES BANKRUPTCY COURT  
7 NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

8 In Re ) Case Number \_\_\_\_\_ 08-46780  
9 Manuel Diaz-Carabes. )  
10 )  
11 ) MOTION TO CONVERT CASE, AND  
12 ) POINTS AND AUTHORITIES  
13 )  
14 )  
15 )  
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16 To: The Honorable Edward D. Jellen, Bankruptcy Judge:

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18 Manuel Diaz-Carabes, debtor herein, by Richard A. Mac Bride, his attorney, hereby move this court  
19 to convert the above captioned case from Chapter 13 to Chapter 7, and as a factual basis and  
20 grounds therefor, state:

- 21 1. On November 19, 2008, debtor filed his voluntary petition under Chapter 13 of the  
22 Bankruptcy Code.  
23 2. A trustee was appointed, Martha G. Bronitsky.  
24 3. This Chapter 13 case is an original Chapter 13 case and no prior conversions have been  
25 ordered.  
26 4. The debtor is eligible under 11 U.S.C. §§ 101(41), 109(b) of the Bankruptcy Code to be  
27 debtors under Chapter 7 of the Bankruptcy Code.  
28 5. Federal Bankruptcy Law provides for conversion from Chapter 13 to Chapter 7 by right at  
any time under 11 U.S.C. §1307(a) at any time with or without cause.

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Motion for Conversion of Case From Chapter 13 to Chapter 7 Bankruptcy 08-46780 – Manuel Diaz-Carabes (Northern Dist. Oakland)

6. The debtors' income is below the threshold required to be eligible to file for Chapter 7, or is sufficiently close to the threshold that under the calculations provided for in the corresponding bankruptcy forms, the presumption does not arise. (See Chapter 7 Means Test, filed simultaneously herewith or shortly thereafter.)

## POINTS AND AUTHORITIES

BANKRUPTCY CODE SECTION 1307(a) (11 U.S.C. §1307): “The debtor may convert a case under this chapter to a case under Chapter 7 of this title at any time. Any waiver of the right to convert under this subsection is unenforceable.”

## PRAYER

Wherefore, debtors move that this Honorable Court enter an order converting this case to Chapter 7, and for such other and further relief as is just.

ss/Richard A. Mac Bride

Richard A. Mac Bride, attorney for debtor

Manuel Diaz-Carabes

January 16, 2010